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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,652	07/15/2004	James J Komiak	D-4590 US	5144

22500 7590 03/24/2006

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EXAMINER

SOTOMAYOR, JOHN B

ART UNIT

PAPER NUMBER

3662

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/501,652

Applicant(s)

KOMIAK ET AL.

Examiner

John B. Sotomayor

Art Unit

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 and 22 is/are allowed.
- 6) ☒ Claim(s) 1,3,10,12,14 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 2,4-9,11,13,15 and 16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings filed July 15, 2004 appear to be informal and are acceptable for examination purposes only.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

3. The disclosure is objected to because of the following informalities: The priority information should be provided in the specification under an appropriate heading.

Appropriate correction is required.

### ***Claim Objections***

4. Claims 3, 10, 12, 14, 17, 18, 19 and 20 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The claims are considered to be quasi-operational in that they do not recite structure that would further limit the structure in the claims on which they depend.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 1 and 3, 10, 12, 14, 17, 18, 19 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, the claim is considered to be a single means claim since the only structure recited therein is a “programmable miniature transceiver” and no further structure is recited to define the structure. Since programmable miniature transceivers are notoriously well known in the art the claim lacks sufficient definiteness as to exactly what is considered to be Applicants’ invention.

For the reasons stated above in letter paragraph 4, claims 3, 10, 12, 14, 17, 18, 19 and 20 are considered to be indefinite since there appears to be no structure recited.

7. In addition, claim 12 is awkward in that there appears to be a comma after “said” which is apparently in error. Correction and/or clarification are required.

8. In addition, claim 19 is indefinite since it is unclear as to what Applicants are claiming. What exactly is meant by “router”? Clarification and/or correction are required.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1 and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Cardullo et al ('148) or Carroll ('427).

Clearly the prior art, as exemplified by Cardullo et al ('148) or Carroll ('427), is considered to meet the claim language as broadly recited by disclosing a programmable tag or transponder.

11. Claims 1 and 19 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Heng ('563) or Chan et al ('626) or Hamel et al ('790).

Clearly the prior art, as exemplified by Heng ('563) or Chan et al ('626) or Hamel et al ('790), is considered to meet the claim language as broadly recited by disclosing a programmable tag or transponder.

***Allowable Subject Matter***

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12. Claims 2, 7-9, 4-6, 11, 13, 15, and 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. Claims 3, 10, 12, 14, 17, 18, and 20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

14. Claims 21 and 22 are allowed.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is cited to show various transceiver systems.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Sotomayor whose telephone number is 571-272-6978. The examiner can normally be reached on Monday to Friday from 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom H. Tarcza, can be reached on 571-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "John B. Sotomayor".

John B. Sotomayor  
Primary Examiner  
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